

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE:)	
)	
NEW ENGLAND COMPOUNDING PHARMACY, INC.))	Multi-District Litigation
PRODUCTS LIABILITY LITIGATION,)	Case No. 1:13-md-2419-RWZ
)	
)	

MAY 2017 STATUS REPORT OF TORT TRUSTEE

Lynne F. Riley, Tort Trustee¹ under the Tort Trust dated June 4, 2015 created pursuant to the *Third Amended Joint Chapter 11 Plan of New England Compounding, Inc.* confirmed by the United States Bankruptcy Court for the District of Massachusetts on May 20, 2015, hereby submits a report on the status of claims processing, lien clearance and payments in the NECC National Settlement annexed hereto as Exhibit A.

Respectfully Submitted,

LYNNE F. RILEY, TORT TRUSTEE

/s/ Lynne F. Riley

Dated: May 31, 2017

¹ Capitalized terms used, but not otherwise defined herein shall have the meanings ascribed to those terms in the *Third Amended Joint Chapter 11 Plan of New England Compounding, Inc.*

CERTIFICATE OF SERVICE

I, Lynne F. Riley, hereby certify that on the date set forth above I caused true copies of the foregoing document to be served through the Court's CM/ECF system upon all registered electronic filers appearing in this case.

/s/ Lynne F. Riley
Lynne F. Riley

Exhibit A

STATUS OF CLAIMS PROCESSING, LIEN CLEARANCE AND PAYMENTS IN THE NECC NATIONAL SETTLEMENT

A. Adjudication of Claims by the National Claims Administrator.

A total of 2,353 claims have been filed with Epiq, the National Settlement Administrator. Of these, 2,022 claims have been fully or partially approved by Epiq and/or Judge Neiman, 289 claims have been fully denied by Epiq and/or Judge Neiman, 40 were invalid (typically a duplicate claim filed by a spouse), and 2 were withdrawn by the claimant of these claims. There are 14 claims that were either fully or partially denied and are subject to possible appeal.

B. Status of Appeals to Judge Neiman.

134 claimants filed appeals of their final determination with Judge Neiman, the Court-appointed Appeals Administrator. Judge Neiman has issued decisions for 131 of the filed appeals. As noted above, there are 14 claims subject to a possible appeal.

C. The Tort Trustee's Efforts to Resolve Claims Asserted by Public and Private Entities for Reimbursement of Health Care Costs.

1. Claims for health care cost reimbursement.

As required under federal law, the Tort Trustee submitted the required information on proposed payments to approved claimants to the Center for Medicare Services ("CMS") who promptly returned Medicare eligibility information on each claimant. Information on each approved claimant was provided to the various state Medicaid agencies through a third party, the Garretson Resolution Group ("Garretson"), to determine if those agencies have claims for medical expenses involving these claimants. As of May 2, 2017, State Medicaid eligibility results have been received for over 98.5% of all approved claimants. In addition to receipt of lien information from Medicare and Medicaid, the Tort Trustee has also received claims for health care cost reimbursement from various private entities.

2. Lien packages mailed to approved claimants and their attorneys

As previously reported, by December 1, 2016, the Tort Trustee, with the assistance of her staff, attorneys, and certain staff of members of the PSC, issued lien letter packages to all of the

1,912 claimants then eligible to receive a lien package. An identical lien package was sent to counsel for each represented claimant.

A lien package was issued for the 5% of finally approved claimants for whom the Tort Trustee had not yet received lien information from a state Medicaid agency. Those claimants were informed that, subject to their return of the properly executed certification and other forms, they would be sent their initial payment, and that if subsequent data from their state's Medicaid reporting agency indicated a claim for reimbursement, then the Medicaid lien would need to be satisfied through future settlement payments, or otherwise.

Of the 2,022 fully or partially approved claims, approximately 1,975 have received a lien package to date. The Tort Trustee anticipates sending lien packages to the remaining approved claimants once the remaining Medicaid data is received.

3. Update on Payments to Finally Approved Claimants Who Have Responded to the Lien Package.

As claimants return properly executed certifications and other forms, claims for reimbursement by public and private entities are thereby cleared. Under the lien resolution agreement with Medicare, Medicare must then provide its final approval for the issuance of initial payments within 5 business days. To date Medicare has typically provided its final approval within three to four business days. Once Medicare sends its final approval to the Tort Trustee, checks are being issued for a claimant's initial payment, typically within 24 hours.

i. Payments made to claimants to date.

As of today, the Tort Trust has mailed 1852 payments to claimants. Of these, 209 checks were payments from one of the individual clinic settlements – meaning 209 individuals received both an Initial Payment from the National Settlement and a payment from a clinic settlement.

To date, funds disbursed to claimants by the Tort Trustee total \$81,922,143.

D. Anticipated Timing on Second Payments from National Settlement.

Pursuant to the Claims Resolution Procedure, “within 120 days of when all claims are finally determined, [and] all appeals are resolved by the Appeals Administrator....”, the

National Settlement Administrator shall determine the final dollar value of each point awarded to claimants, so that the Tort Trustee may make second payments to claimants from the National Settlement. It is still estimated that the second payments will be approximately equivalent to the amounts of the Initial Payments. The Tort Trustee estimates that Second Payments will be issued this summer.

F. Summary Chart

For the Court's convenience, the pertinent numbers set forth above are summarized in the chart below:

Adjudication of Claims		
Total Claims Filed:	2,353	
Total Approved Claims to Date	2,022	
Total Claims Fully and Finally Denied	289	
Claims Withdrawn by the Claimant	2	
Invalid Claims	40	

Lien Clearance and Initial Payments to Finally Approved Claimants		
Number of Claimants eligible to receive lien package	2,022	
Number of Claimants Sent lien package	Approx. 1,975	
Number of claimants mailed payments to date	1643	Initial Payments from Nat'l Settlement
	209	Clinic Payments
	1852	Total Payments
Total Amount Distributed to Claimants To Date	\$81,922,143	